

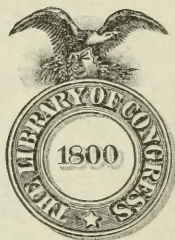
SD

426

.A66

Ammons, E. M.

Address relative to the rights and
uses of forest reservations. 1910.



Class SD 426

Book .A 66

FOREST RESERVATIONS.

Mr. HUGHES presented the following

ADDRESS DELIVERED BEFORE THE JOINT SESSION OF THE COLORADO LEGISLATURE, MARCH, 1909, BY HON. E. M. AMMONS, RELATIVE TO THE RIGHTS IN AND USES OF FOREST RESERVATIONS.

JUNE 25, 1910—Ordered to be printed.

Mr. AMMONS. Mr. President, members of the general assembly, and ladies and gentlemen, on the matter of the preservation of the forests there is no dispute between the Forest Service and myself. There is no dispute between any two good citizens of this country. The question as to whether or not the system of control that has been put over these reserves is a wise way in which to administer the forest lands of this country is where the difference of opinion arises.

Mr. Pinchot is in favor of the present policy. He has helped to build it. Long before he came into possession of it, according to his reports, about ten years ago, I find that he was working out the plans, the working plans for the control of these forest reserves. So that we may naturally suppose in addition to what he says that he is in favor of that system of control. I am opposed to it for a good many reasons, and I will try to explain some of them to you. You will notice from what he has said to you to-night that he talks of this system of government as being permanent. In other words, as we have been told from the beginning this policy has come to stay.

He tells you that he will listen to complaints; that he wants to hear them, and that when they come to him he will give them the most careful attention and consideration; that he will try to adjust them, and that he will do this with justice. I believe that is true. But he does not give the question as to whether these complaints are caused by a faulty system or not, any consideration whatever; he believes his system is correct. Now, my friends, this is where the issue lies, and it reminds me of the sheriff, who, having read the death warrant to the prisoner, added with much deference: "I will try to make the details as comfortable as possible."

In what I shall have to say to-night, I mean nothing personal against anyone. I want that understood. But I am going to criticise this service, not because of the men who are out here in the West trying to put it into effect, but because of the principle underlying it, and because it is a system under which I firmly believe Mr. Pinchot could not give good administration however hard he

might try. I am going to give a few illustrations during my talk to-night, not as isolated cases, not for the importance of the instances themselves, but because they illustrate what is happening under this system. As many of you know, I am not able to read myself, being a Democrat perhaps; so that I will have to ask Mr. Eddy here, when I want a passage read, to read it for me.

Now, my friends, I am going to take up a few matters that have been referred to by Mr. Pinchot. He says that they—he and his followers—want homesteaders here on these reserves; that they want the home builder and the home seeker; that they are encouraging them. Let us see about that. Let us see how practical the effect of his system is in this matter. They have a law, he says, that makes settlement possible. The Congressmen and Senators down in Washington from some of the Eastern States say homesteaders are free to come into the reserves. I have been reading the speeches made the last three or four weeks in support of appropriations, and they claim that homesteaders can go into the reserves and stay without hindrance. A like assertion is made in the documents sent out.

I want to call your attention to what the law is. It has been advertised in our own press and the press all over the country, and I will ask Mr. Eddy to read just those material portions relating to settlement.

Under the act of June 11, 1906—

The Secretary of Agriculture may, in his discretion, and he is hereby, authorized upon application or otherwise, to examine and ascertain as to the location and to the extent of the lands within the permanent or temporary forest reserves which are chiefly valuable for agriculture and which, in his opinion, may be occupied for agricultural purposes without injury to the Forest Service and which are not needed for public purposes. * * * That nothing herein contained shall be held to authorize any future settlement of any lands within the forest reserves until such lands have been opened to settlement as provided in this act.

Now, ladies and gentlemen, just notice the reading of that act. Can you find in it—and that is the material portion of it—one single right for any man to make settlement on a homestead, except at the pleasure of the service? Now, you have it. There is the plain reading of the law. No man can deny it, and yet that is the law advertised all over this country as the one under which homesteaders may locate unhindered in the reservations. Notice the reading of it. "The Secretary of Agriculture," meaning for all practical purposes the Forest Service, may in his discretion do as he pleases; do these things for John Smith or anybody else; allow him to go into the reserves and locate. But John Smith may go there only at the pleasure of the service. Section 5 doesn't say "may" or "in his discretion," but it says that "no future settlement of these lands shall be made except under the provisions of this act." There is the plain law of it. Did you get that impression from what you have been told? Did you get it from what Mr. Pinchot has said here to-night? Here you have the law itself, and everybody in this State ought to read it. The Secretary of the Interior has no discretion in the matter. After these lands are listed, if the Secretary of the Interior is requested to open them, then he has no discretion and must do it; but he can't do it without this request. Now, my friends, that is something that you can not get away from.

JUL 7 1910
D. OF A.

What is the actual operation? There is a case I want to mention. Perhaps you have read it. I am using this as a practical illustration of the workings of this system. Over near the town of Newcastle a man named Porter applied for a homestead September 10, 1906. It was February, 1908, before he got a reply as to whether he could take that land, and then what did they say? They said it was chiefly valuable for grazing; insisted it was very high, being at an altitude of about 8,000 feet; and wasn't, in the opinion of the service, fit for cultivation. They turned him down; wouldn't let him have the land. He had waited there over sixteen months to find out whether he could take that land or not. That is one instance. Here is another: Mr. Pinchot says, "We want home builders." Over there on the western slope is a recent case which illustrates the system that has grown up under this service.

Before the establishment of the reservation a man by the name of Mitchell took up a desert claim; put water on it; made a home there for his wife and his children; proved up on it; and something over two years ago got his final certificate. Then the Forest Service came in, protested that claim, refused to permit a patent on that land, and to-day it is held as headquarters for some of those rangers. What do you think of that? They said the settler could not make a living there, but he was making one. Anyhow, is that a good reason for denying him the land so long as he was honestly endeavoring to improve it? He had made his home there. And this is not all they did. He had a crop growing when he got this decision. They permitted him to remain to get his crop, but they rented the place to him—his own buildings, his own crop, his own property—until he could get that crop off and then compelled him to move off the land. Is that the way to encourage home seekers? And I want to say right here and now that I am willing to contribute my share of the funds, if it is necessary, to carry that case to the Supreme Court of the United States and find out whether this Forest Service has a right to do such things as this.

A similar case to this I brought to the attention of one of the leading constitutional lawyers of the State, and he said, "They can't do that. We can get that patent." And I said, "Who is going to pay for it? That fellow hasn't any money. He is just as helpless as a babe. He has got to take what is handed to him." My friends, do you believe that is encouraging settlement?

Let me call your attention to something else. There have been numerous cases where men have applied for homesteads and been turned down on the ground of what I call "ranger-steads." Last year some three hundred and fifty homesteads were allowed on these reserves. At the same time there were more than 1,600 ranger-steads allowed. I am going to take their own figures—1,675 of these ranger headquarters were withdrawn. The homesteaders were limited to 160 acres each. Will anybody tell me how many acres are contained in these ranger-steads? I hope Mr. Pinchot will explain that, because I would like to have this information myself. Four times as many headquarters set aside for these rangers as there were homesteads granted! Is that encouraging people to come and make homes? And there has been homestead after homestead refused to make way for these ranger headquarters, notwithstanding the fact there were already several times as many headquarters as there were

rangers. I could cite more instances of that kind, but have given enough to illustrate.

As to this question of mining. We are told here to-night the service does not interfere with mining and prospecting, that it has nothing whatever to do with the validity of a mining claim. You have heard what Mr. Pinchot has just said. We have also Mr. Pinchot's letter on this subject, and I am going to ask Mr. Eddy to read a clause of that letter, published broadcast throughout this State. It was written to the Denver Post and copied in many other papers.

Under date of October 24, 1908, in a letter signed by Mr. Pinchot, occurs this extract:

The rules and regulations of the Forest Service do not interfere with the right to prospect, locate, and develop mineral claims. The fact is, the regulations of the Forest Service have nothing whatever to do with the validity of a mining claim.

Ladies and gentlemen, notice the reading of that extract. What inference do you get from it? It says definitely that there is no interference with the validity of a mining claim. I will ask Mr. Eddy to read a notice of protest from the land office.

LEADVILLE, August 11, 1908.

M. R. SLITKA, *Breckenridge, Colo.*

By authority of the General Land Office, August 6, 1908. You are hereby notified that a forest officer has filed the following charge against the validity of your mining location for the Victor No. 2 lode, Pollock district, ———, on the following charges, to wit. * * * You are notified that if you fail to file in this office within thirty days from date, a written or printed answer under oath, denying each of said charges, or showing the state of facts rendering said charges material, and applying for a hearing to determine the truth of said charges, or if you fail to appear at the hearing applied for, said above entry will be rejected and void and entry will be canceled.

GEORGE A. CUSTER.

There is an official letter from the land office, showing that the Forest Service brought charges against the validity of that claim. I am not going into that case, however, but I want to call your attention to one thing in the rules, and that is this: That the forest officer who makes the charges against the validity of that claim does not swear to it. He does not have to make an affidavit, but the poor devil who has to defend it must make an affidavit. And let me call your attention to another thing in connection with this very claim. The forest officers had sold a large part of the dead timber off that claim. They made the sale under the rules of the department which provides that if a man stayed right on the property and watched it, all right, but if he went away they would take the timber and sell it. That is in there; and you know, every one of you who knows anything about mining, that those prospectors, most of them, haven't much means. During large portions of the year they are compelled to go away and work somewhere for a "grubstake." That is exactly the case of this man, and had it not been for friends putting up the money to pay expenses, Slitka would have lost the claim within thirty days, because he had not the means to comply with the requirements of the notice from the land office. If a man stays and watches his claim continuously, the officers are instructed not to touch the timber. The forest officers are instructed, when they find a claim unoccupied, to sell the dead timber from it, and it is so provided in their rules. Is that encouraging mining and prospecting?

Another case: Down in the land office at Del Norte, in the San Luis Valley, a company filed on some placer land, 60 or 80 acres, and

when the claimants went to prove up on it they found a protest made by the forest officers. A hearing was had. Who were the witnesses? Two rangers, as witnesses, and the supervisor conducted the examination. When the attorneys for the company attempted to cross-examine those witnesses the supervisor instructed that they could refuse to answer the questions, and the rangers refused to be cross-examined. After the hearing was over the land office decided in favor of the claimant. Then the papers went to Washington for patent. And what do you suppose happened? At the time that land was located as a placer claim there was no reservation there. If those people had wanted that land for timber or stone they could have taken it up without any trouble under the timber and stone act, and paid for it at \$2.50 an acre. But they wanted it for mineral. In Washington the Forest Service again interfered and presented enough influence to the Commissioner of the Land Office to cause the patent to be refused. That is what happened. Those claimants had to hire an attorney; had to go to Washington and ask for a rehearing. They finally got it, the decision was reversed, and they got title to their land.

But, my friends, there is another side to this. These proceedings cost them over \$7,000. Is that encouraging mining in Colorado? I could tell you of a case in Gunnison that cost \$350, and a case in Gilpin County called to my attention, among others, but I am not going to give any more instances.

I want to call your attention a little further to what this system provides for. Away back when this Forest Service was transferred from the Interior Department to the Agricultural Department there was, at the request of the President, I believe, according to public reports, a "treaty agreed upon" between these departments as to the handling of these public lands. It was, in fact, a treaty. There were three things in that treaty that I will have read to you. I want you to recall all the time what Mr. Pinchot said here to-night, and what he said in that letter he signed, read by Mr. Eddy. I will now ask that three articles in that treaty be read.

First. The refusal by the General Land Office to issue final certificate or allow final entry for any land claim within the forest reservations against which a forest officer has protested, until a full hearing before the local land office.

Second. Definite notice to be given by the General Land Office and by the Forest Service of complainants' intention to make final proof.

Third. The acceptance of the Forest Service finding of facts concerning the land claimed within the forest reservation.

My friends, that means all kinds of claims. It is plain enough. Whenever any person makes application to prove up on his mining claim or his homestead or desert entry, what happens? The Forest Service makes an examination, and if it likes files a protest. Then a hearing must be had. The claimant must go to that hearing and present his case. At that hearing the General Land Office must accept the finding of fact presented by the forest officers. The claimant is put to an enormous expense and is at the mercy of the Forest Service. Is that not interfering with prospecting? Can any reasonable person imagine that you could discourage it more? Every mining man in Denver knows that the service sends out a ranger to examine mining locations. They pretend to tell you whether it will pay or not, whether there is mineral or not. What mining expert is there who can say certainly what is beneath that ground? How

many districts of Colorado have been dug over and over again in which years afterwards somebody comes along and finds the treasure which others thought was there, but were not able to find for themselves? How many localities have there been passed upon by the wisest experts we have out here, and passed upon adversely, upon which afterwards paying mineral has been found? There are not always well-defined veins in sight, and you know a great deal of this prospecting is done because they can not locate the vein. They know from the float that it is there and they run drifts, but no prospector can know exactly where it is. What happens under this administration in a case of this kind? The claimants are turned down because they can show no well-defined vein.

I want to call attention to just one more thing, and that is that by the terms of this treaty the Interior Department, which issues the patent, accepts the finding of facts as reported by the Forest Service, whether it is by an expert or not. They accept it and agree to it. They have a sort of treaty between them, and this treaty, this agreement, was made, I believe at the request of the President of the United States, and it stands as a fact to-day, and the rules are in accordance with it. I intended to read some of these rules, but I shall not take the time, because they are in absolute accord and the practice is in accord with both the treaty and the rules.

I now want to take up just for a moment another question; that is as to timber sales. How is the timber sold? We are told by some of these books that the timber is going to be sold to the people at a reasonable price. As a matter of fact, how is it sold? Why, to the highest bidder. No one can deny that statement, because that is the practice in this State at least. They ask for bids, and it is sold to the highest bidder where there is any considerable quantity of it. Now, my friends, suppose, while we are trying to keep down monopoly, a certain tract of timber is to be sold, and the lumber trust, if you please, wants it because it may come into competition with its own lumber. What does it do? Bids for it high enough and gets it, and adds the price to the consumer, and you know that is practically a fact. A good deal is made out of the plea that the little fellow, these homeseekers, get all of the timber they want. I took some figures from Mr. Pinchot's report and last year they averaged to these people \$5.49 worth apiece. Yet, my friends, the service insists that we will have to make a further limit on this distribution. Before these reservations were established the people were permitted to have whatever they needed; they were permitted without let or hindrance. Don't forget that.

Now, about rights of way for ditches. I may not be able to read the English language correctly, but I have studied these rules pretty carefully, and I find that if some of you gentlemen combine, go over on the western slope, and build a ditch that you are held as speculators, and must, under one pretext or another, pay for the right of way. Getting water out of these canyons is exceedingly difficult. The price charged for right of way must be added to the cost of the water used by the homeseeker who wants to make a home. What is the difference whether the homesteader builds that ditch himself or whether there shall be a union of effort? I want to tell you the very reason the reclamation fund has been established is because in

so many instances the settlers could not come together and raise the money to build ditches.

I want to call your attention to a little red book sent all over this country. It is called "The Use of the National Forests." It reminds us how many ways there are in which the public land may be located before it gets into the forest reserves. It is an official document sent out by this Forest Service. You have been told by Mr. Pinchot to-night that what they want to do is to encourage the settlement of this country.

Referring to the public lands this book says: "Under whatever law it is taken up, it passes with all of its resources out of the hands of the people forever." Does that look as though they wanted this land to come into the hands of the homesteader? What is the best way to get these lands into the hands of the people? How about the land upon which this building stands? How about these buildings surrounding it? How about the magnificent city? These lands have all been taken up under some sort of a law. When you get on the east side of Broadway I believe it was taken up under the homestead or preemption law and was not at that time considered very valuable even for farming or pasturage. According to Mr. Pinchot's book, these lands right here on Sherman avenue, when they passed out of the ownership of the Government, went out of the hands of the people forever. Do you believe that? Go out into the farming districts where beautiful homes have been built and ditches constructed. Have the lands gone out of the hands of the people or gone into the hands of the people? Tell me that. Which would you rather have, the landlord system over these lands around the city or have them in the hands of the owners, the owners living upon them and making them their homes?

In this same book, and you heard it reiterated to-night, the Forester says they make no charge for water. Indeed, in the book they go a little further. They say they do not charge for water, but they charge for the conservation of the water. Now, I look over in this same little book and I find the definition of that word "conservation." It's Mr. Pinchot's definition and therefore somewhat official. What do you suppose it is? It says it is "the wise use of." Now, therefore, my friends, they don't charge for the water; they charge for the wise use of it. And I have quoted exactly from that book.

Let us note another matter. When they charge for the conservation of water for power purposes, how do they measure that conservation? Easy. By the total amount of water used. These rivers and creeks have been flowing down these hills longer than Mr. Pinchot and I have been alive. I have been looking at them for thirty-five years. I defy any human being to say whether there has been any permanent difference in the amount of the flow in that time. But they are not content with making "a conservation" charge for the whole amount of water used. Mr. Pinchot also wants to make us pay for the "fall furnished." Furnished by whom? God Almighty set these mountains on edge so the water would run down hill and furnish power.

They say they don't charge for irrigation water; they charge for its conservation. I will ask Mr. Eddy to read something to show they intend to charge for the water itself:

First. That the forest reserves are for the use of the people and no privileges will be denied unless they exercise a material interference with the reserve interests, or threaten harm to the public.

Second. That a reasonable charge may be made for all such uses whenever the permit involves the withdrawal of the particular resources of the land from the use by the people in general. The charge, however, may probably be remitted in the following cases: When the use granted will result in direct benefit to the forest reserves or its administration, as for telephone lines, wagon roads, trails, etc. When the use is by any other branch of the Government, district, State, county, municipality, or by private individuals or associations of persons, for the use of water to develop their own land.

You see that the charge "may probably" be remitted in certain instances. "May probably" is a good expression, and I will tell you that we have had this "may probably" put in these rules ever since the very first one was promulgated. That "may probably" be changed to-morrow, to-day, next week, or any other time, and then it may be stricken out. But the fact remains they intend to charge for water for irrigation wherever an excuse can be found.

A few days ago one distinguished Senator of the United States, in supporting this Forest Service, capitalized these great resources which the Government might get something out of. The supporters of this service had been preparing these figures to use in an endeavor to increase the appropriation for the Forest Service, and they promise an income from water for power purposes alone of \$30,000,000 a year. That would be a magnificent income, but who is to pay it? The consumer. It will have to be settled for by the people who use light and heat and power, and is therefore an unwarranted, unjustifiable burden upon every home and industry in the State. How can we build very fast under that retarding influence?

My friends, they are capitalizing the value of the water for irrigation. According to these same figures, those of you who are using irrigating water would be paying to the General Government an annual rental of \$8,300,000. Is that encouraging irrigation of these arid lands?

Let me mention something else. We need rights of way. These reserves are scattered over this State, covering something like 25 per cent of it according to the figures of the Forest Bureau. A large proportion of irrigating ditches, power plants, and railroads must cross some portion of the reserves. When we want a right of way for an irrigating ditch which touches one of these reserves, we are entirely at the mercy of the Forest Service. Some time ago a certain corporation asked for a right of way for a railroad. This right of way would require about 8 acres of a forest reservation. Land of the same character in that locality was recently sold at 47 cents an acre. There was not much timber and not a very great crop of grass growing on the land. The company finally succeeded in getting a special permit to allow it to go over that reservation at an annual rental of \$3 an acre and the service charged for 15 acres. Do you think such a course is helping things along? Then, after thousands of dollars had been spent to build this road, the permit only ran for one year, and if at the end of the year the company had not completed the work it was liable to have to abandon the enterprise. This is the kind of

right of way given by this Forest Service which is so overanxious to develop the country.

And there is something else. They have another agreement in this so-called treaty, whereby no right of way can be granted by the Interior Department until a bond is given that satisfies this Forest Service. The treaty does not say it shall be a reasonable bond. If private lands were involved only a reasonable bond could be required. Otherwise, the courts would make the terms equitable. If a bond applies to a right of way in the dominion of the Forest Service, you can not protect yourself, but must do whatever is required of you.

How is this Forest Service organized, anyhow? We have in this country a system of government composed of three coordinate branches. We, the people, are supposed to control it. We elect our legislators. They come here or go to Congress and announce our policies. Nobody else has a right to announce a policy for us. The law is our policy, and we make it through these people we elect. If there is a question about the meaning of this policy, we choose courts to interpret it, and then as announced and interpreted we elect ministerial agents, an executive department, if you please, to carry it into effect. That principle runs through all of our institutions, and everybody knows it. How about this service? This forest-reserve territory is not a small experiment station. It is not a little cattle ranch. I heard Mr. Pinchot say one time he thought it was a pretty big cattle ranch. He realizes it is; he appreciates it; he is trying to make the most of it. It is not a mere cattle ranch. It is a vast territory, bigger than Germany, bigger than France, once and a half times as large as Italy, equal in size to twelve and a half States of this Union, and in Colorado alone there is sufficient to cover four and one-half of the original States.

They tell us themselves in the estimates they publish that it has boundless resources not yet developed and capable of supporting millions of people. Therefore, the control of this territory is governmental in its functions; any plan of government that is put over the people within it should be in accord with the other institutions of this Union, and I challenge anyone to deny that principle. The system of government placed over the forest reserves is in direct opposition to this principle.

Mr. Pinchot makes his own laws, construes them, and executes them. He is the legislature, the judiciary, and the executive. Mr. Pinchot claims to have statutory permission for his system. The claim is farfetched. But whether Mr. Pinchot has statutory law for what he does or not, the system is wrong and contrary to our fundamental law, and I believe will so be proven when tested in the Supreme Court. The question is whether the system is right. If not, it should be changed. If he thinks Congress would approve laws such as these rules and regulations I want to ask him right now whether he is willing to go to Congress and ask to have his rules made into law before he enforces them. What the people want is law affecting all alike and not rules and regulations made and enforced at the discretion of one man, whosoever he may be or howsoever good he may be.

This system has been organized under several laws, and the principal one of them is this: That the Secretary of Agriculture—which means the Forest Service—shall make the rules and regulations for

the use and occupancy of these reserves. That is a broad statement and there is no doubt that he can go a long way in that "use and occupancy of these reserves." He is hampered by just a few things. The law says we can have mining claims, and he makes us a lot of difficulty in getting them. Possibly with the consent of the Secretary of Agriculture, somebody can get a homestead, but outside of this I know of no limitation. He has prepared several acts that have been passed, among which is the power to arrest people for violation of these rules and regulations. At first I did not think there could be such a law, but I find there is. It provides that persons permitting their cattle to trespass in violation of the rules shall be subject to arrest, fine, and imprisonment. Mr. Pinchot claims to have entire jurisdiction over this reserve territory. He has taken this claim to the court of appeals in the Shannon case, and has obtained a decision that declares the jurisdiction of the State ceases at the border of the government land. Therefore he has absolute control over these reserves. He is in fact a very sovereign. He can say who goes there and who stays out. He can say whether my cattle can be grazed there or whether they can not. He can say whether I can do business there or whether I can not. I want to tell you you can not help yourself. These are the powers he has, and he makes the laws for the regulation of these reserves. Do you think these things are in accordance with the institutions of this American country?

In case of a dispute coming up, as to these rules and regulations, who is the court that determines and interprets them? This department itself. It is the legislator, the court, and the executive. It has all these three powers in its hands. What is the practical effect of this? Let us look at it a little bit. I have taken the advice of some very good attorneys. If the forester's contention is correct, that the jurisdiction of Colorado, for instance, ceases at the border of the government land, what becomes of your legislative power over these reserves? Indeed, the service denies your right to pass laws covering this territory contrary to its own rules and regulations.

The people of the Forest Service say they want to encourage the homeseeker. You heard Mr. Pinchot say that to-night. How are they doing it? The only thing they have left the settler is a very limited homestead right and even that is granted only at the pleasure of the service. There is much land included in these reserves that should be opened to entry under the desert-land law, but the benefits of this act are wholly denied within the boundaries of the reservations. Even grazing lands can be located as other agricultural lands outside the reserves. They can not be homesteaded inside the reservations. In fact everything, except the limited homestead and even more limited mineral entry, must be conducted under a system of governmental landlordism. A man can go into almost any kind of business if he pays the price, but when he does becomes a tenant. He does not and can not own his own home. Suppose you want to start in business there and get a special permit and build a building. Suppose you want to start a power plant. The Forest Service advertises among others some forty-one different lines of business that you can go into in these reserves under a special permit, but the title to the land remains in the Government.

Under the decision in the Shannon case, the State's jurisdiction does not extend over these reserve lands. Granted for the sake of

argument that this position is correct, that the jurisdiction of the State does not go further than the boundaries of the government land, you have got a system of tenantry there. Is that the way to build American homes, under a system of landlordism, governmental landlordism at that? These tenants living on reserve lands can not even vote, because they are outside the jurisdiction of the State. I have had decision after decision hunted down to prove that.

Suppose improvements are made on these reserve lands. Do they pay taxes? Not on your life. Not a dollar to the State or counties in which they lie; because it is outside of the jurisdiction of this State. Has the State any interest in this policy? Look at it a moment and see how it is going to affect you. You have no control over it whatever. They say they return 25 per cent of what they collect. By what right do they fix the amount of taxes in Colorado? Will you tell me? They may have a legal right, but by what moral right do they limit what they return to us? They say for two special purposes; schools and roads. They knew these things would catch the people. These are popular. Why, my friend Mr. Pinchot can appreciate that. He has had that in mind these many years. Why didn't they favor general taxation? There is something else these counties have to do besides building roads and supporting schools. They have to provide for protection of life; they have to furnish protection to the rangers and other forest officers. They must provide protection of property, and there is the foundation of all taxes. But they don't help in that they don't contribute a penny toward protection; but pick out these two things that are catchy.

In the return of this "conscience" fund they limit the amount given to 40 per cent of the tax collected by the county. Suppose 60 per cent of any particular county is in the reserve—and I know of a county not far from here of which more than 60 per cent is in the reserve—why should not they put the same amount in that county? They should; but they don't do it. I might go into this and point out a great many other things in this direction.

Let us see how this system works as to individuals. In any forest reserve you may please the people who are living there—doing business there—are depending upon government property. A man may own his homestead, but he can not live there alone. In most mountainous districts he must depend upon the pastures outside. In order to get pasturage he must look to the Forest Service. If there is a dispute as to that pasturage, how does he settle it? Mr. Pinchot says come to him and get a settlement. If I am doing business in the reserves, I know the friendship of the local officers is necessary to my well-being. I certainly have to have that, because he has the power to recommend against me or for me. I know in many ways he could do me little favors, or he could do me an injustice. I therefore must toady to him. This is human nature. That is something that will exist, whether Mr. Pinchot wants it or not. It is controlled by a law as old as the human race. That man is at the mercy of these fellows, and he does not dare get into a dispute. How can his cattle be taken care of? He must keep them there at the recommendation of these men even if he must drive them from one creek to another until their feet wear off. I know something about this; I have spent most of my life at it. I don't believe very many men gather their cattle for

counting very often. They are held in a bunch and counted out when sold. It costs a dollar a head to gather them and count them. Now suppose, as has happened, some ranger does not like some one and orders his cattle to be gathered and counted in March. Suppose it were this March, with cattle in bad condition. The loss would be not less than 25 per cent. It might break the owner and cost him the savings of a lifetime. These are the conditions that exist.

Suppose the stockman does take Mr. Pinchot at his word and appeals to him. If he can get some influential friend to intercede for him, he would probably get that fixed up. What happens? He has incurred the everlasting enmity of the ranger, and there are thousands of ways in which that fellow can follow him to his ruin. I am not citing an isolated case. I want to tell you that there has grown up in the business out on these little ranges a most vicious system of control, and most of the small stock owners to-day are living in terrorism. Their souls are not their own; their American manhood is subdued; there is ringing in their very souls a hatred of this Government.

Why, my friends, they say that these grazing lands belong to all the people of this Government. Since the first settler came upon the Atlantic coast there has been this frontier, and it has been opened up by the hardy pioneer who went out a little distance at a time, each one a little bit farther, to graze his cattle. The sister States back East, Illinois, Iowa, Kansas, Missouri, all of these other States have had their privilege. It never cost them anything. It was an inducement held out by the Government for the settler to come out West and occupy these lands and build him a home. He did not find a home there. He did not find a fence. He went where, as I have had personal experience, there was no acre plowed, no foundation laid for a house, where the cabins had to be built, and the land had to be plowed and broken, and the crops had to be fenced and raised, and the only inducement offered him was this little pittance of free range for the few head of stock he had. These States have all enjoyed this privilege. The fact that they have ought to appeal to them. Some of these people are before Congress appealing for more funds for this service, and now these same people are coming out here, where the agricultural difficulties are much greater than back East, where we must dig canals and build reservoirs to irrigate the land, and say to us, "You must pay for this privilege which we had for nothing." And you will pay for it forever if this Forest Service has its way.

They say they are going to take this land and hold it permanently to be handed down to some unknown generation. I want to say to you, my friends, that there is no justice in that policy whether they have permission of law or not. They say they charge a sum only sufficient for administration of the grazing lands. I want to tell you there is not enough grass in any one neighborhood, if you took every dollar of the profits, to pay the salary of one supervisor, and I will stand by the truth of this statement.

Let us see how this effects the State. I have called your attention to the fact that they have withdrawn the lands and resources from taxation. In Colorado taxation is based mainly upon land. Under the decision in the Shannon case the Government has the jurisdiction. Why? Because it owns the land. Let us see where that will lead us, my friends. They have now between 23 and 24 per cent of Colorado in the forest reserves; therefore our jurisdiction is gone from

that portion. Another 25 per cent of the area is composed of government lands which they are trying to get under the same control by the terms of the Curtis-Scott bill. This makes 50 per cent that is taken from the dominion of the State. Suppose the Government buys 25 per cent more. Then our jurisdiction is reduced to 25 per cent. Then suppose they step in and buy the other 25 per cent. What, then, becomes of the legislature and the state government? If the argument is any good in one case, it is good in the other. I deny that it is good law. I want to say that if there ever was a mistaken decision handed down by any court in America, it was the decision in the Shannon case. Yet the district courts do not want to reverse it; they do not want to go into it. They refuse to go into it; they will not attempt to reverse the higher courts. The greatest duty you gentlemen of the legislature have to perform is to take this matter to the Supreme Court of the United States and find out what your rights as a State are.

Let me call your attention to something that is exceedingly important. Suppose some fellow commits a trespass. That is, suppose his cattle wander on some unfenced reserve. The forest officer puts in a claim for damages, say, \$4.50. The stockman disputes the justice of the claim and refuses to pay it. What does the Forest Service do? Brings suit. For how much? I don't know how much. In one case they brought suit for \$1,000 on a claim of \$4.50. Can the ranchman fight the Government? What will it cost him? Well, I don't know what it might cost him. Let me tell you something. I went over to Glenwood Springs and heard the testimony taken for the defense in the Light case. It cost \$350 to the stockmen taking testimony one day. The Government then put in its testimony here, and a good many of those interested had to come to Denver. This \$4.50 suit was brought against a pretty well-to-do stockman, and yet he was not financially able to fight it. The expense would be so great that even if he should finally win it it would cost him all he had. He was, therefore, compelled to settle it on terms dictated by the service. Now, let me tell you that that thing will happen right along until the people of the country understand. Do you believe that is according to American institutions? How does that conserve the forests of this great State—that sort of terrorism?

Suppose the ranger has an enemy. Suppose he has a friend. Suppose the interests of these two people conflict. The ranger is not going to do that friend an injustice, that is one thing sure, and the enemy knows it. If there are any favors to bestow, who will get them, the enemy or the friend? The man who boosts for the service is taken care of and the one who does not is made to feel the iron hand. Then there is trouble and heartache and bitterness, with no power to command justice.

Trouble has grown up under this system. Nothing could prevent it. There always has been favoritism and terrorism where this system of arbitrary discretionary power was in control and overriding the law. Mr. Pinchot can not help that condition, no matter how hard he may try. It is inherent in the system. What does he do if a complaint is made? He refers it to his force, and they report to him. These rangers are loyal to him, and he has told you here to-night that he is loyal to the men in the service. Who has the

advantage, therefore, the citizen who complains or the loyal ranger? Why, my friends, this ranger down at Del Norte was promoted to be supervisor because possibly he refused to be cross-examined in that mining case. The men in the service have the ear of the department all the time, and the poor devil over on the western slope can not even come to Denver, for ordinarily he can not afford the expense. When he does come here he doesn't know anybody, and perhaps the other fellow has more friends here and more influence. Do you suppose such a system is going to insure good government? After all is said and done, by what system of moral right should we turn over to any human being or to any bureau of this Government, discretionary, arbitrary power over our territory or any of its people?

Tell me something else. Why is it necessary to go into all these lines of business in order to protect the forests? Why is it necessary to include in the reserves the land above timber line, where no timber can ever be made to grow, except for the purposes of the revenue that they are going to get out of it? Why should they permit the people as tenants on this land to go into the 41 lines of business that they mention, except that the men in the service may get the revenue? Are these forests not valuable enough to repay the Government for their administration? If not, let it turn them over to the State of Colorado to-morrow, and I will guarantee that they will be administered as well as now, and protected as well from fire, and no other line of business will be taxed in order to support them.

They say they want a grazing tax to help out these forests.

Why should they compel the cattlemen to pay tribute to this proposition any more than the banker, the grocer, or any other human being in this State? Tell me that. I want a good reason for it. Their cattle have done no harm to these forests. I want to tell you that these are pipe dreams that they have been sending out through the magazines of this country. I have had more experience in this timbered country than any man in the service that I know anything about. I have yet to see the first pine or spruce tree ruined by cattle. The more the ground is tramped the more the trees are likely to grow. If Mr. Pinchot will go with me on the old road between here and Floyd Hill, where that road went when I was a boy, and where it has been changed now from one place to another, I will show him where the old roadbed has grown thick with pines with not a bush a foot beyond the wagon tracks on either side. As a matter of fact, the people in the Forest Service do not know, and no one knows, under what conditions timber will grow best in these mountains. I have studied this subject from a practical standpoint; Mr. Pinchot has observed it from a theoretical standpoint. I don't claim to know, and I know of no one else that does know, what is the best way to grow timber in this State. Why is it necessary to bring un-American institutions into this country to protect and grow forests? Can't we grow trees under our own form of government?

Mr. Pinchot says he is going to prevent monopoly. How? By charging a royalty on every resource we have? What has a royalty charge to do with monopoly, anyhow? Why hasn't it occurred to this wonderfully wise Forest Service to find some way of preventing monopoly without increasing the price of everything we use to the consumer? As a matter of fact, Mr. Pinchot proposes that the Government change its time-honored policy and go into business for

revenue, not only in timber growing and lumbering, but in every possible line, including farming and pleasure resorts, capable of being carried on in the forest reserves, and that, too, on untaxed property in competition with our citizens, who must bear the brunt of taxation to build and support our growing and needed institutions. Suppose you own land, upon which you have built improvements, adjacent to a forest reserve. The land has cost you something; you had to build barns and fences and other improvements. You must pay taxes on both your land and what you have put upon it. Just across the line in the reserve the Government, directly or as a landlord, is doing business in competition with you; but it pays no taxes, and even compels you to fence your cattle from off its land.

My friends, they are putting permanent improvements on this land as fast as they can. In one reserve I know of they built a beautiful cabin last summer and built a big bridge to get to it, so that they would have a scenic spot of ground. They are doing all of these things. They have put \$5,000,000 worth of such improvements on these reservations, and what they pay for it all must come out of the resources and the industries of the West.

They admit many things are wrong, and Mr. Pinchot tells us he is here to fix them up. He says he has come to right wrongs. By what right does he come to Colorado to right wrongs? Who gave him authority to fix these laws so that you and I can not go into the courts of the land and defend ourselves against oppression?

I have just been looking over the report of the Forester. I find that 78 per cent of the cost of maintenance is for the employees in carrying on business enterprises in the reservations. Therefore only 22 per cent is for the protection of the forests. And this business is going to increase just as fast as they can get means to carry it on. Why should they not confine their efforts to forest protection? They say they haven't time; that they haven't men enough. Let me call your attention to something they are doing in this country. They send out people under pay to lecture on the Forest Service. They lecture to women's clubs, for instance. I see one man turned in a bill for \$10.25 for a lecture; another for \$10. Why wasn't that amount paid for patrolling the forests instead of paying for lectures?

I went out to California to the cattlemen's convention, and went with the Colorado delegation before the resolutions committee. A large number of gentlemen, very wealthy gentlemen, in the cattle business, were there. I was informed there were two or three men representing the Forest Service in consultation with the resolutions committee. One of them I knew. He is one of Mr. Pinchot's chief lieutenants. He referred to the Light case. He was explaining to that committee that the reason that this case was postponed and was not brought up as it ought to have been was that Mr. Light had got cold feet. Now, my friends, I had to call upon Mr. McGrillis, whose son tried the case, and who was familiar with it, to prove to the committee that the reason that case was held up was an attempt by the Forest Service to make the defense agree to the statement of facts which would have put us out of court to begin with. It was a long time before we could get a modification, and in the end the Forest Service did not keep its agreement, but insisted upon a form of complaint which did not state the truth and which cost us a lot of useless expenditure. After the convention this same distinguished

lieutenant of the Forest Service, who was out at the city of Los Angeles protecting the forests from fires and other depredations, wrote an article belittling everybody who had anything to say to thwart their plans regarding the public lands. I believe this is the same gentleman who had some time before written another article to a leading periodical in which he lauded himself as a disinterested party who had started out in opposition to the service, but had changed his mind. He had now come to believe it was a great thing. I looked him up and found that, curiously enough, his conversion had come at the very time at which he went on the pay roll of the Forest Service.

Indeed, a large portion of this force of foresters is used in conducting a press agency. They are publishing articles all over the country, telling what a great work they are doing here and encouraging it. They became so enthusiastic over it that they forgot what the facts really were, and to those of us who have lived in these reserves and have seen some of these remarkable results they are talking about, it becomes very funny indeed.

They talk about improvement of the ranges. Right in sight of this capitol, and within 20 miles of this capitol, there is one of the oldest reservations in the State. Anyone who has known this range before and since the reserve was established will tell you it is worse to-day than it was before the Forest Service assumed control. They talk about cattle being heavier in the reserves. In one way that is true, for they have gobbled up all the best cattle ranges I know anything about. As to whether or not they have improved live-stock conditions we need not go far to find out. Look at this reservation right here in sight of us. I think I have weighed nearly as many cattle from that reservation as has any man who has lived within it. The 3-year-old steers from this range before the reserve was established weighed 1,100 pounds on the average, and the dry cows sold for beef went from 1,050 to 1,100 pounds. Of course some years they would go a little higher. And now these cattle are coming to the same market and the 3-year-old steers are averaging 850 pounds and the dry cows 825 to 850 pounds. And I can call to my witness in this very audience a number of as good citizens as are in this State to substantiate that fact. Mr. Pinchot's press agents are publishing laudatory statements which are not true, and they are doing so on the authority of people out here who want special privileges and who are toadying to this bureau, helping them to establish themselves here in the hope of "standing in" and getting advantages.

What can we do to head off this sentiment? In their figures they give a monthly circulation of 9,800,000 copies of publications on which this stuff is being printed. Down in Congress they call us "looters" now; they say that every man who took up timber, who built a miner's cabin, who built his homestead house—even he who took up the homestead itself—is a looter of public property. I never was so aggrieved in my life as at some remarks made in Congress. Is that the way to preserve these forests?

Let me suggest a way to preserve them. Let me tell Mr. Pinchot how to have a forest system that will remove every particle of opposition in this country to his administration. Let him confine his efforts and the efforts of his Forestry Bureau to forestry. Let him get it out of his mind that all good is centered in him, that he is a

sovereign of every natural resource in the West, and of every industry of our people. If he will take what is necessary of his force of employees and go into the protection of the forests and the growth of the forests, we will all be with him, and he will have the cooperation of this State, and there will be no opposition. If he is going to grow forests, let him grow them where they will grow. Let us have a system of forestry in this country that will extend all over it. He has no right to milk the West for the benefit of the East.

Do you know that the other day, down in the House of Representatives at Washington, a bill passed 157 to 147, by which \$2,000,000 a year are to be taken out of the proceeds in these reservations? What for? To buy forest reserves in the East. Did you know that? Is that fair? They propose something else. The friends of this service down there proposed an amendment to the agricultural bill for this purpose. The amendment provided that owners of private lands in the reservations might exchange, mind you, might exchange the lands to the Government for stumpage. In other words, that the Government was going to trade this timber for land in order to get jurisdiction over more territory. Fortunately, it was knocked out on a point of order. The same people who supported this amendment were the ones who supported the general policy of the Forest Service. They were going to preserve the timber by trading it for land. You see that this State has a great interest in this. It wants to raise trees.

The Government ought to conduct an experiment station up here at the agricultural college. I will assure the gentleman the State will cooperate with him. I am on the board of control, and we will find out what are the best trees in Colorado so the citizens can grow them at a profit and for the benefit of the people. The State will join us.

Now, then, my friends, this Forest Service has not to exceed one-fifth of the timber in the country; the balance is in private holdings. Up here in our own State no valuable timber grows on the headwaters of these streams. It takes from two to five hundred years to grow a tree of any value. Have you ever known of any hard wood, anything that would polish, and finishing wood, to grow at this altitude? In California, I saw a tree just 5 years and 4 months old 81 feet high. It was 10½ inches in diameter at the butt. They told me that that sort of timber, eucalyptus, had grown as high as 43,000 feet of lumber to the acre in ten years. There are places where you can grow more timber on an acre there than you can grow on a township in the mountains here in the same time. Why not find trees in other similar climates that will do better here than any of the natives? When the Forest Service shall engage in that sort of work, it will be acting within its legitimate function and we will join in the work. But whenever the Forest Service attempts to establish a tenantry system and a system of governmental landlordism, when it tells us the Government will keep these lands permanently, withdrawing them from taxation, then the State must continue to fight it in the courts.

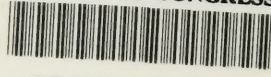
My objections to the rule of the Forest Service are fundamental. Its system of government is wrong. Pretending to have the sanction of law, it violates the most vital constitutional principles upon which our institutions are founded. It makes its own laws, changes them at will, construes them to suit its own pleasure, and enforces them or

not as the exigencies of self interest may demand. Under it friends may be favored or enemies punished, servility rewarded or independent manhood discouraged. It assumes to itself a righteousness of purpose which the trend of its performance does not prove. Its rules are special laws and its continued existence must be purchased at the cost of unpardonable favoritism. Its attempts to reestablish a system of government by individuals and not by law. It denies the principle of equality before the law. Through an influenced press bureau its main energies are spent in praise of acts it does not perform. Authorized by Congress to grow and protect forests, it has taken millions of acres of mineral and agricultural lands into its dominions, and has gone into every conceivable line of business under a most objectionable system of governmental landlordism. It has been a willing tool in the hands of the Lumber trust by which the price of lumber has been more than doubled to the consumer. Professing to favor the saving of coal it obstructs the building of hydraulic plants for generating cheaper power and light. It seeks to withhold large portions of our territory from taxation by the State and to impose burdens from royalties upon the development of our resources. Its blighting influence has interfered unreasonably with prospecting and seriously checked the growth of the mining industry. It has locked the doors against settlement and driven the home seeker to other countries. By preventing the construction of power plants it denies us proffered reductions in the price of heat, light, and power. It feeds upon our industries, thwarts our development, and hinders our growth. It is an unnecessary, unprofitable burden. It is an unwelcome importation, and makes a miserable misfit amongst our free American institutions.



GAYLORD BROS.
MAKERS
SYRACUSE - N.Y.
Pat. Jan. 21, 1908

LIBRARY OF CONGRESS



00009232187

